

**PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL HIGHWAY ADMINISTRATION,  
THE UTAH STATE HISTORIC PRESERVATION OFFICER,  
AND THE UTAH DEPARTMENT OF TRANSPORTATION**

**REGARDING**

**PROJECT #: SP-0067(14)0;  
West Davis Corridor Project, Davis and Weber Counties, Utah**

**WHEREAS**, the Federal Highway Administration (FHWA), in conjunction with the Utah Department of Transportation (UDOT), propose to undertake **PROJECT #: SP-0067(14)0; West Davis Corridor Project, Davis and Weber Counties, Utah**, which proposes regional transportation mobility improvements; and

**WHEREAS**, the FHWA taken into account the effects of **PROJECT #: SP-0067(14)0; West Davis Corridor Project, Davis and Weber Counties, Utah**, on historic properties and has determined that this undertaking will have an adverse effect on six architectural properties and one archaeological site eligible for inclusion or listed in the National Register of Historic Places. FHWA has consulted with the Utah State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

**WHEREAS**, in accordance with 36 CFR 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination with specified documentation and the Council has chosen not to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii); and

**WHEREAS**, the Utah Department of Transportation (UDOT) is the agency coordinating this project on behalf of the FHWA, has participated in the consultation, and been asked by FHWA to be an invited signatory to this agreement pursuant to 36 CFR §800.6(c)(2); and

**WHEREAS**, the projects may be implemented using a design-build procurement process, which integrates the final design and construction phases; and

**WHEREAS**, the design-build process requires flexibility in the location of certain ground disturbing elements, meaning that the location of some ground-disturbing elements may not be known until immediately prior to construction; and

**WHEREAS**, the FHWA has consulted with the Skull Valley Band of the Goshute Indians, the Eastern Shoshone Tribe of the Wind River Reservation, the Shoshone-Bannock Tribes of Fort Hall, the Paiute Indian Tribe of Utah, the Northwestern Band of the Shoshone Nation, the Uintah and Ouray Ute Indian Reservation, the Cedar Band of the Paiutes, and the Confederated Tribes of the Goshute Reservation; and the Tribes have been afforded an opportunity to review the project and have not responded with objections; and

**WHEREAS**, the FHWA has consulted with the Centerville, Farmington, and Layton Certified Local Governments; the Utah Heritage Foundation; and the Utah Professional Archaeological Council and the Ogden Community Development Department; none have responded with objections; and

**NOW, THEREFORE**, the FHWA and the Utah SHPO agree that upon FHWA's decision to proceed with the undertaking, FHWA shall ensure that the following stipulations are implemented in order to take into account the effects of the undertaking on historic properties, and the stipulations shall govern the undertaking and all of its parts until this PA expires or is terminated.

shall ensure that it is implemented before construction at Site 42DV70. The adverse effect to this site may be resolved after this testing phase.

- B. Additional excavation work beyond exploratory testing will depend on the testing results and consultation with tribes and the consulting parties. Any such work will be outlined in an addendum to the treatment plan, which will be reviewed by SHPO within 10 business days.
- C. An updated site form for 42DV70 will be submitted at completion of this work.
- D. If, after data recovery efforts are complete, the site retains NRHP-eligible attributes and integrity, UDOT will employ an archaeological monitor during all ground disturbing activities within the site boundary. A monitoring/discovery plan shall be developed as part of the research design and data recovery plan.

**III. REPORTING:** The FHWA shall ensure that any/all reports on activities carried out pursuant to this agreement are provided to the SHPO, the Council, the signatories to this PA, and upon request, to any other interested parties.

**IV. DESIGN-BUILD PROCEDURES:** Due to the nature of the design-build process, the exact location of some ground disturbing project elements, such as storm water conveyance or utility relocations, will be designed by the design-build contractor. The interval between the design of an element and its construction may be too short to perform standard identification, evaluation, and assessment of effects on an historic property, and therefore the following procedures will be implemented when such elements will extend beyond the current APE or will have effects on historic properties:

- A. The UDOT will determine whether a cultural resources survey is required of the subject area. Survey will be required if the area has not already been adequately investigated and/or contains native ground surface. The subject area may be evaluated through pedestrian survey, reconnaissance/windshield survey, and/or subsurface testing, as appropriate.
- B. Construction will not proceed until the subject area has been adequately investigated and evaluated for potential impacts to cultural resources. The UDOT will document its findings using one of the following processes:
  - 1. If no cultural resources are identified, resulting in a finding of **No Historic Properties Affected**, a Tier 1 form will be completed and submitted to SHPO for informal consultation. The SHPO will have 72 hours to respond to the Tier 1, which will also be submitted with the UDOT quarterly report (in accordance with the 2013 UDOT Section 106 PA).
  - 2. If cultural resources are identified but are determined to be not eligible OR will not be impacted by construction, resulting in a finding of **No Historic Properties Affected**, a Tier 1 form will be completed and submitted to SHPO with the quarterly report (in accordance with the 2013 UDOT Section 106 PA).
  - 3. If cultural resources are identified, are determined to be eligible, and construction will result in a finding of **No Adverse Effect**, a DOEFOE will be prepared and submitted to SHPO. The SHPO will have 15 days to respond to the DOEFOE, after which concurrence will be assumed.
  - 4. If cultural resources are identified, are determined to be eligible, and construction will result in a finding of **Adverse Effect**, a DOEFOE will be prepared and submitted to SHPO.
- C. Should any of these project elements result in an Adverse Effect to an architectural property(s) the UDOT shall resolve this effect by documenting the property(s) in accordance with Stipulation I of this Agreement. SHPO and any interested parties will be notified before mitigation measures are conducted.

objecting parties to resolve the objection. If the FHWA determines, within 30 days, that the objection(s) cannot be resolved, the FHWA will:

- A. Forward all documentation relevant to the dispute to the Council in accordance with 36 CFR 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise the FHWA on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from the parties to the PA, will be taken into account by the FHWA in reaching a final decision regarding the dispute.
- B. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the FHWA may render a decision regarding the dispute. In reaching its decision, the FHWA will take into account all comments regarding the dispute from the parties to the PA.
- C. The FHWA's responsibilities to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged. The FHWA will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute under this stipulation. The FHWA's decision will be final.
- D. Further, at any time during implementation of the measures stipulated in this agreement should an objection to any such measure be raised by a member of the public, the FHWA shall take the objections into account and consult as needed with the objecting party, the SHPO, or the Council to resolve the objection.

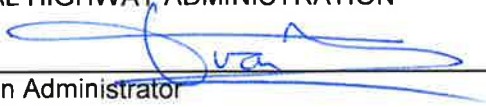
**IX. AMENDMENTS AND NONCOMPLIANCE:** If any signatory to this PA, including any invited signatory, determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this PA pursuant to 36 CFR 800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all of the original signatories is filed with the Council. If the signatories cannot agree to appropriate terms to amend the PA, any signatory may terminate the agreement in accordance with Stipulation X, below.

**X. TERMINATION:** If this PA is not amended following the consultation set out in Stipulation IX, it may be terminated by any signatory or invited signatory. Within 30 days following termination, the FHWA shall notify the signatories if it will initiate consultation to execute an PA with the signatories under 36 CFR 800.6(c)(1) or request the comments of the Council under 36 CFR 800.7(a) and proceed accordingly.

**XI. EXECUTION:** Execution of this Programmatic Agreement by the FHWA, the Utah SHPO, and the UDOT, and the submission of documentation and filing of this Programmatic Agreement with the Council pursuant to 36 CFR 800.6(b)(1)(iv) prior to FHWA's approval of this undertaking, and implementation of its terms, serves as evidence that the FHWA has taken into account the effects of this undertaking on historic properties, and has afforded the Council an opportunity to comment on **PROJECT #:SP-0067(14)0; West Davis Corridor Project, Davis and Weber Counties, Utah.**

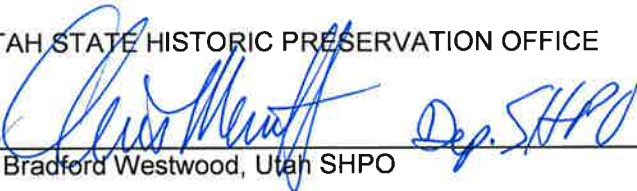
**SIGNATORIES:**

THE FEDERAL HIGHWAY ADMINISTRATION

  
\_\_\_\_\_  
FHWA Division Administrator

6/12/17  
\_\_\_\_\_  
Date

UTAH STATE HISTORIC PRESERVATION OFFICE

  
\_\_\_\_\_  
P. Bradford Westwood, Utah SHPO

6/21/17  
\_\_\_\_\_  
Date

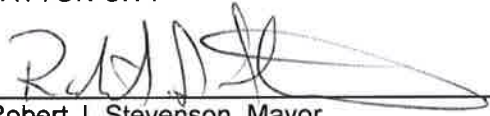
**INVITED SIGNATORIES:**

UTAH DEPARTMENT OF TRANSPORTATION

  
\_\_\_\_\_  
Kris Peterson, UDOT Region Director

12 June 2017  
\_\_\_\_\_  
Date

LAYTON CITY

  
\_\_\_\_\_  
Robert J. Stevenson, Mayor

6/12/17  
\_\_\_\_\_  
Date